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TSE, YOUNG TOI				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/695,124

Applicant(s)

SHEYNMANN ET AL.

Examiner

YOUNG T. TSE

Art Unit

2611

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-14 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8, 9, 15, 16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 3-7, 17 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date 20090224
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on February 24, 2009 have been fully considered but they are not persuasive.

Applicants argue that the Rodriguez reference teaches a different operation from what is alleged. The Rodriguez reference is directed to a method and apparatus for recordable media content distribution wherein a set top box employs a purchasable and recordable media (PRM) content application to record movies and video clips, etc. The office action alleges that the Rodriguez reference teaches, among other things, "editing the selected digital broadcast content to produce edited digital broadcast content, based on digital rights management data." (Office action, page 4) citing inter alia paragraph 79. However, Applicants respectfully submit that paragraph 79 (nor any of the other paragraphs cited) refers to digital rights management data as being used as part of an editing operation of selected digital broadcast content that was received and recorded to produce edited digital broadcast content. Instead, the cited portion describes the editing, not of the actual received digital broadcast content (e.g., a movie), but instead the editing of personal annotations such as dates that the PRM application recorded the video, etc. (see paragraph 79, lines 26-28). In fact, when referencing the actual media content, Rodriguez teaches that the media content can only be "viewed, deleted, or spooled". The media content itself is not edited. In addition, the cited portion also makes no reference to any digital rights management data being employed for editing the

received digital broadcast content. Since the reference does not teach what is alleged, Applicants respectfully submit that the claims are in condition for allowance.

Regarding claims 1 and 15, although Rodriguez does not use the exact language or explicitly show, teach or suggest that digital rights management data being used as part of an editing operation of selected digital broadcast content that was received and recorded to produce edited digital broadcast content, Rodriguez teaches that "the carousel DTCs 230 carry broadcast data, such as EPG data and data for a catalog of recordable media content that is systematically broadcast in a cycling fashion but updated and revised as is need be." (See paragraph 47, lines 9-12) Rodriguez further teaches that "the downloaded PRM content can be recorded with modified or additional category information." (See paragraph 79, lines 7-9) Additionally, it appears well known to a skilled artisan or inherent that the updated, revised, or modified selected broadcast content (e.g., movies, CDs, video clips, etc.) are based on digital rights management data, such as provided by the DNCS 232 and/or the conditional access system 370 (see paragraphs 50, 52, 53, 72, and 79, lines 15-26). Also see the broadcast program transmission/reception system of the newly provided US 2002/0055854 which includes a pay broadcast program site containing pay broadcast programs to edit digital broadcast content (see paragraphs 16, lines 19-26; 18, lines 13-16, 34, 108, 112, and 113) and provide digital rights management data (see paragraphs 11, 13, 33, 36, and 100-107). Therefore, the argued subject matter of claims 1 and 15 including the dependent claims are unpatentable either by Rodriguez and/or in combination with other well known art.

Applicants also argues that as to claim 19, it is alleged that the Rodriguez reference also teaches wirelessly sending either digital broadcast content capture commands or editing commands by a mobile terminal, receiving either of the digital broadcast content capture commands or editing commands that were sent and capturing or editing by a network element the digital broadcast content based on the received content capture command or editing command. Again the office action cites paragraphs 49, 55, 56, 60, 61 and 79. It is alleged that the DHCT sends digital broadcast content capture commands or editing commands. However, there is no mention of any such commands in the cited portions. Also, none of these paragraphs teach among other things, a network element that captures or edits received digital broadcast content based on the received content capture command. In addition, there are no editing commands that are wirelessly sent and received that are used by a network element (as opposed to mobile terminal) set forth in the cited paragraphs. Accordingly, Applicants respectfully submit that the reference does not teach what is alleged. Accordingly, Applicants respectfully submit that this claim is also in condition for allowance.

Regarding claim 19, the wireless sending and receiving at least one of digital broadcast content capture commands and editing commands are being performed by a remote terminal, such as the remote device, and capturing or editing, by a network element, such as the user interface, received digital broadcast content based on the received content capture commands or editing commands (see paragraph 6). Although Rodriguez does not use the phrase "capture commands" or "editing commands", it

appears inherent and/or well known to a skilled person in the art that the "capture commands" and/or "editing commands" are somewhat required for billing communication systems, for instance, between a network television system and a subscriber user, Rodriguez also teaches that "each carousel DTC 230 and on demand DTC 240 is defined by a session managed by a session manager 334 in FIG. 3, via an MPEG-2 digital Storage Media Command and Control (DSM-CC) protocol". (See paragraph 47, lines 24-27) Rodriguez further teaches that "the conditional access system 370 communicates with the DHCT 16 and the billing system 320 to determine whether a particular subscriber is authorized to receive PRM control". If a DHCT 16 is not authorized for PRM service, the conditional access system 370 insures that such services are not transmitted." (See paragraph 53) Therefore, the argued subject matter of claim 19 is unpatentable either by Rodriguez and/or in combination with other well known art.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-2, 8-9, 15-16 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (U.S. Publication No. 2003/0005453, hereinafter "Rodriguez") in view of Noreen et al. (U.S. Publication No. 2002/0183059, hereinafter "Noreen").

Rodriguez discloses a media system, such as a digital broadband delivery system (DBDS) 10 or a cable television system (CTS), which is generally a high quality, reliable and integrated network system that is preferably capable of delivering video, audio, voice and data services to client devices, such as digital home communication terminal devices (DHCTs) 16 shown in Figures 1 and 2. (See paragraphs 5, 6, and 41).

Figure 3 shows a block diagram of the example headend 11 of the DBDS 10 of Figure 1.

Figure 4 shows a block diagram of the example DHCT 16 of the DBDS 10 of Figure 1.

Regarding claim 1, the headend 11 and/or the DHCT 16 of the media system, the DBDS system 10 or the CTS system comprises, for example, a QPSK modem 326 for receiving a digital broadcast content, a digital network control system (DNCS) 323, a content manager 321, a purchasable recordable media (PRM) application server 319,

and an MPEG-2 video-on-demand (VOD) content server 322 for recording selected digital broadcast content from the received digital broadcast content and editing the selected digital broadcast content to produce edited digital broadcast content, based on digital rights management data. (See paragraphs 47, 49, 50, 52, 53, 55, 56, 60, 61, and 79).

Regarding claim 15, the headend 11 and/or the DHCT 16 of the media system, the DBDS system 10 or the CTS system comprises, for example, the QPSK modem 326 operative to receive digital broadcast content over a broadcast channel; one of the QAM modulator groups 324 and/or the data QAM modulator 330 operative to transmit information; the DNCS control system 323, the content manager 321, the PRM application server 319, and the MPEG-2 VOD content server 322 correspond to a controller, a copyright processor, a broadcast content editor, and a memory, operatively coupled to the QPSK modem 326 and to one of the QAM modulator groups 324 and/or the data QAM modulator 330 to receive the digital broadcast content and edit selected digital broadcast content to produce edited digital broadcast content based on digital rights management data. Also see paragraphs 47, 49, 50, 52, 53, 55, 56, 60, 61, and 79).

Regarding claim 19, the headend 11 and/or the DHCT 16 of the media system, the DBDS system 10 or the CTS system comprises, for example, a transmitter circuit of the DHCT 16 for sending at least one of digital broadcast content capture commands and editing commands through a network 18; the QPSK modem 326 for receiving the at least one of digital broadcast content capture commands and editing commands sent;

and capturing or editing, for example, by a network element, such as the DNCS control system 323, the content manager 321, the PRM application server 319, and the MPEG-2 VOD content server 322, received digital broadcast content based on the received content capture commands or editing commands. See paragraphs 49, 55, 56, 60, 61, and 79).

Although Rodriguez teaches that the media system, the DBDS system 10 or the CTS system can be implemented in a satellite system, but fails to show, teach or suggest that the media system can be used in mobile terminal as recited in claims 1, 15 and 19. See paragraph 43, lines 41-48.

Noreen is also related to a media system, such as an interactive media system 100 shown in Figure 1 and teaches that "the interactive media system 100 is provided to subscribers of the system via subscriber access devices and interactive radio mobile units are mounted within vehicles 104 or at other locations." Further, Noreen also teaches that "in some embodiments, each mobile unit includes a receiver 116 for receiving radio broadcasts, a GPS system 118 for determining the location of the vehicle 104, and a wireless transmitter 120 for transmitting interactive radio control signals to a network operation center 110" as shown in Figure 2. Abstract.

Therefore, it would have been obvious to one of ordinary skill in the art to mount Rodriguez's media system, such as the DBDS system 10 or the CTS system in a radio mobile unit within a vehicle as taught by Noreen in order to transmit/receive edited broadcast content to/from, for example, satellite systems or base stations.

Regarding claims 2, 9 and 16, Rodriguez teaches that the DBDS system 10 can be a plurality of DBDS systems tie together a plurality of regional networks into an integrated global network so that DHCT users can receive media content provide from anywhere in the world. See paragraph 41.

Regarding claims 8 and 18, wherein editing the selected digital broadcast content includes evaluating device editing rights stored to determine whether an editing operation to the selected digital broadcast content is allowed. See paragraph 43, lines 1-7; paragraph 49, lines 9-28; paragraph 55; and paragraph 63, lines 1-5.

Allowable Subject Matter

5. Claims 10-14 are allowed.
6. Claims 3-7, 17 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kurauchi et al. relates to a broadcast program transmission/reception system includes a pay broadcast program site containing pay broadcast programs, multiple commercial information management sites each of which stores multiple commercials, multiple viewer's terminals, and a commercial sponsor site.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOUNG T. TSE whose telephone number is 571- 272-3051. The examiner can normally be reached on Monday-Friday 10:00-6:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad H. Ghayour can be reached on 571- 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/YOUNG T. TSE/
Primary Examiner, Art Unit 2611